



Ontario Land Tribunal (OLT) Attendance Policy

Purpose:

The Township of Southgate Ontario Land Tribunal (OLT) Attendance Policy is to provide direction on instances that the Township may need to determine a course of action on a By-law or Official Plan Amendment appeal. The policy will place the decision on the course of action with Council, recognizing changes to appeal rights undertaken by the Provincial Government through amendments to the *Planning Act*.

Background:

Appeals related to planning decisions can originate from various sources and so this policy recognizes that an appeal may stem from a private developer (landowner) or may originate from the Township related to a decision made by the County on a subdivision.

Recognizing that appeal rights have shifted with amendments to the *Planning Act* and various sources of an appeal, it is important to understand the source of an appeal and context. There may also be situations where a decision is made not to defend an appeal, however the OLT may summon staff to be present. A summons from the OLT has the same jurisdiction as any other Court summons, with penalties for lack of cooperation. In these cases, it is important to recognize that staff should be represented with legal counsel.

It is also important to recognize that many appeals can often be resolved through discussions prior to a formal hearing – allowing for negotiated resolutions to issues. There may be circumstances where an appeal is filed by an appellant that, in the opinion of staff, is not a proper appellant. This may be based on past decisions of the OLT or clear direction from the *Planning Act*.

Given that staff will be the first group to become aware of or receive an appeal – the process to inform Council will initiate at a Staff level. The final decision of the course of action will remain with Council and this policy recognizes that reconsideration on how an appeal is to be addressed may be needed as appeals can be fluid and change as issues come into focus, are addressed or are removed.

Procedure:

1. When an appeal has been launched, staff will prepare a report to notify Council that an appeal has been received and seek direction on how to address the appeal. The report will provide as much detail as is appropriate to reveal and the opinion of staff in terms of actions to be taken (or not taken).



2. Council will determine based upon the initial appeal any action to be taken based upon staff discussion. This decision is recognized as an initial reaction to the appeal and may change as the process moves forward.
3. Where the OLT determines that an appeal is not valid and is not accepted – Staff will provide the OLT correspondence back to Council as soon as practical.
4. Where Council has provided direction to defend an appeal, Staff will engage appropriate legal counsel. This action will focus on a negotiated settlement against any or all the issues raised in the appeal(s), recognizing that a resolution is far less expensive than a hearing.
5. During the appeal process, Staff will provide regular updates to Council as is appropriate. These updates may seek further direction on actions to be taken, clarification on direction, settlement negotiations, or new actions depending on the circumstances. The final decision on the course of action will rest with Council.
6. Where Council gives direction not to participate in an appeal, but Staff are summoned by the OLT to give testimony – where time permits, a report to Council to approve legal representation will be prepared. If timing does not permit, Council agrees that representation to protect Township staff can occur – in advance of a report being provided to Council.
7. When the Township participates in an OLT hearing and the County is also a participant and is of the same opinion of the Township on the issues involved in the appeal(s), the Township will seek opportunities to partner and cost share legal expenses, when appropriate, with the County of Grey.
8. Where the Township is successful in defending an appeal, consideration of pursuit of cost recovery will be left for Council. Staff will provide a report, following the issuance of the OLT decision in the Township's favour. OLT procedure is that cost recovery must be pursued within 30 days of a decision. If an appeal is vexatious, Staff may provide a report to Council in advance of an OLT written decision to provide a suggested course of action.